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MINUTES

**Maryland Prepaid Tuition Task Force**  
**Notes of September 17, 1996 Meeting**

Governor Parris Glendening, in his welcoming remarks, spoke of the need to keep the doors of opportunity from closing. He commented that average tuition at the community colleges has increased by 140 percent in the last decade and at the four-year public institutions it has more than doubled.

The Governor stated that the ultimate goal is a full package which could be phased in over the next few years which would allow every student who desires to attend college. He asked that the task force look at the prepaid programs offered by other states but keep open minds about the design of a Maryland prepaid tuition plan. He hopes the ultimate plan will offer flexibility.

Secretary Florestano gave a brief overview of the 1987 task force report. The report recommended a variety of options rather than concentrating on the issue of prepaid tuition. Based on the task force report, the state concentrated on the sale of minibonds. The main reason the recommendations of the task force were not acted on was the \$8 - \$9 million projected fiscal impact.

Frederic Ballard, Jr., Ballard Spahr Andrews & Ingersoll, informed the task force members that the federal tax issue has been resolved by congress this summer by allowing states to create tax-sheltered tuition programs. He touched briefly on some of the issues which must be addressed by the task force. S. Nelson Weeks, Ballard Spahr Andrews & Ingersoll, addressed securities law implications related to the prepaid tuition programs. He stressed that the participants of the program must fully understand the contract.

Delegate Mossburg stated that he had obtained an opinion from the Attorney General's office on the state's liability. He would like copies of the opinion distributed to the members at the next meeting.

Secretary Florestano stated that the briefing document contained an overview of the eight states that currently offer prepaid programs. She also directed the task member's attention to the memo from Charles Saunders and the information on tuition rates in Maryland that he requested be distributed to the members.

Chairman Crawford asked that binders containing more specific information on the programs in other states be prepared for task force members. In addition, he asked that additional information be added to the comparison chart.

Chairman Crawford asked that Secretary Florestano establish a schedule of meetings which would include two public hearings. The meeting schedule as well as a list of the task force members should be faxed as soon as possible.

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## MINUTES

### Maryland Prepaid Tuition Task Force Notes of October 25, 1996

The October 25th meeting at the Maryland Higher Education Commission was a working session focusing on the prepaid tuition plans of Florida, Ohio and Massachusetts. The members of the task force consulted with officials of these states by telephone. The intent of these discussions was to determine what features of the Florida, Ohio and Massachusetts programs could be incorporated into the Maryland program. The members of the task force were also interested in learning about possible changes to the Florida, Ohio and Massachusetts programs due to the new federal regulations pertaining to state prepaid tuition programs. The new federal regulations exempt qualified state prepaid tuition plans from federal taxes and clarify the tax status of purchasers and beneficiaries. In addition, they inquired about how tuition rates were set in the various states, and requested demographic and actuarial data on the various programs.

**Florida Program:** The first conference call was held with William Montjoy, Executive Director of the Florida Prepaid College Program. Mr. Montjoy informed the members of the task force that as a result of the new federal regulations, the dormitory option that was previously part of the Florida program would not be offered in the future. The 60,000 contracts that were sold prior to the existence of the new federal laws would, however, be honored. He stated that Florida may seek congressional action to resolve the dormitory plan issue in its favor. He also indicated that the proposed state bill, which would suspend the sale of dormitory contracts, would probably include a provision to allow the state to reinstate these plans if regulatory changes occurred. In response to a question on whether or not a separate dormitory plan could be offered using tax-exempt bonds, Mr. Montjoy said that while this could be done, a separate dormitory program could create potential marketing problems. He stressed the need to keep a prepaid tuition program as simple as possible. With respect to how tuition rates are set in Florida, he informed the task force that the legislature does have control over tuition rates. He noted that in states, such as Maryland, in which the legislature does not set tuition rates, the risk of an unfunded liability could be minimized by using actuarially sound pricing, restricting the age of beneficiaries and attaching an escape clause. He also informed the task force that since the Florida program is backed by the full faith and credit of the state, the program's liabilities are included in the state's debt ratings.

**Massachusetts Program:** Peter Mazareas, of the Massachusetts Education Finance Authority, informed the task force members that the new federal regulations did not require any changes to the Massachusetts program. Massachusetts chose to use general obligation bonds (GO) to finance their program to ensure that it would be tax-exempt, and thus were not affected by the new federal regulations. Mr. Mazareas explained that the rate of return on these special general obligation bonds is 2.5% higher than the growth rate of the Consumer Price Index and that their maturities are structured to match expected program redemptions. Although the program has the authority to issue \$125 million in bonds per year, the current level issued is approximately \$45

million. He noted that the cost of issuing these bonds was lower than issuing standard general obligation bonds. There are no residency restrictions on purchasers of the general obligation bonds but they must be held for at least five years before they can be redeemed. Under special circumstances, such as in the event of the death or disability, the state will repurchase bonds from participants. These bonds are then resold to new program participants. To date, redemptions have averaged around \$90,000 annually. Payment options provided with the Massachusetts program include a payroll deduction option as well as automatic transfers from checking accounts. Unlike Florida, participating private and public institutions bear the risk of the program. Mr. Mazareas also stated that the Massachusetts program did not intend to invest in equities since this would require outside financial expertise and raise the program's costs. With respect to the governance of tuition rates, Mr. Mazareas indicated that each participating institution sets its own rates. During the discussion, it was noted that a Maryland program financed with general obligation bonds may not be desirable due to the fact that the maximum limit of State GO bonds is 15 years.

**Ohio Program:** Barbara Jennings, of the Ohio Tuition Trust Authority, stated that as a result of the provision in the new federal regulations which clarifies the tax status of purchasers and beneficiaries, accounts will be set up in the name of the purchaser rather than that of the beneficiary. In a description of how the Ohio program operates, she emphasized that it was structured to make it as affordable as possible for participants. Benefits can be purchased in tuition units which represent 1% of the weighted average tuition of Ohio's four year public higher education institutions. As of October 1, the cost of a tuition unit is approximately \$42. Monthly contributions to the program can be as low as \$15, however, the average family contribution is between \$40 to \$50. Payment options include a payroll deduction option as well as an automatic deduction option (from checking accounts). A 1994 constitutional amendment allowed the state to back the program with its full faith and credit. Ms. Jennings indicated that the guarantee was offered to enhance the marketability of the program as well as to prevent an unfavorable ruling by the Internal Revenue Service on its federal tax status. The guarantee specifies that the program will redeem benefits at the future weighted average in-state tuition rate at the time a beneficiary enrolls in college. Tuition credits can be used out of state or at private institutions. With respect to the governance of tuition rates, Ms. Jennings stated that each participating institution sets its own rates.

In his closing remarks, Chairman Crawford asked the members to consider which features of the Florida, Ohio and Massachusetts programs could be applied to the Maryland program. He also indicated that representatives from the accounting firm Deloitte & Touche have been invited to the October 29th meeting to discuss tax issues associated with prepaid tuition programs.

## MINUTES

### Maryland Prepaid Tuition Task Force Notes of October 15, 1996

The October 15th meeting at the University of Maryland Baltimore County was intended to be a public session, however, due to the fact that there were no members of the public present, Chairman Crawford decided to discuss the evaluation criteria to be used in structuring a Maryland Program.

The first item discussed was whether the Maryland Program should be limited to residents and/or institutions. The members of the Task Force decided that a beneficiary must be a resident of Maryland at the time of enrollment into the program. In addition, the members decided that while the program should offer beneficiaries the flexibility to attend out-of-state institutions, a penalty should be imposed if benefits are not used in-state. This would make the program consistent with recent federal regulations.

The members also decided that the program should not provide a dormitory option since under the new federal regulations, dormitory expenses are excluded from prepaid tuition programs. It was noted that while a dormitory option could be provided that was exempt from only state taxes, this might place heavy administrative burdens on the program. It was also suggested that possible attempts should be made to encourage congressional action on the matter.

With respect to a state subsidy, the members decided that some form of subsidy may be required for the program, however, limits should be placed on the cost to the State. This limit should take the form of a cap. In addition, the program should be structured to minimize personnel requirements, prevent the creation of a new state agency, and limit risks to participating higher education institutions. The members also agreed that the program should have an annual enrollment period.

In a discussion of what type of program would appeal to legislators, middle-income families and the executive branch, it was suggested that financial models be developed to evaluate various program structures and that a marketing study be performed.

The Chairman announced that the next meeting on October 24, 1996 would be a working session focusing on programs in other states. Representatives of Massachusetts, Florida and Ohio will discuss (via telephone) their prepaid tuition programs.





## MINUTES

### Maryland Prepaid Tuition Task Force Notes of October 3, 1996 Meeting

Dr. Florestano distributed a table which shows who has the authority to set tuition rates in other states. She noted that the state legislature has the authority to set tuition rates in Florida where the prepaid tuition program is guaranteed by the state.

Mark Reger reported that when the first mini-bonds were offered by the state, the treasurer's office conducted a survey to determine why people purchased mini-bonds. Only 14 percent indicated that they purchased the bonds for college savings. Mr. Reger reported that he had discussed the prepaid tuition program liability with Moody's. They stated that while there are liability issues with prepaid tuition programs, as long as the programs are actuarially sound state bond ratings should not be affected. Mr. Reger also indicated that the Treasurer would support a prepaid program as long as no state guarantee is included.

The task force members discussed whether or not an income test should be included in the program. The consensus was that there should be no income test for participation in the program. The consensus of the discussion of whether or not participation should be limited to Maryland residents was that the beneficiary must be a Maryland resident at the time the contract is purchased but that the purchaser need not be a resident.

There was a discussion of whether or not there is an existing state board that could administer the prepaid program. It was suggested that the Treasurer should be the custodian of the funds and the Maryland Higher Education Commission should be the administrator. Secretary Florestano pointed out that the Commission's role is policy rather than administration. Chairman Crawford commented that in addition to not having the staff to administer the program, the Commission would be moved from a policy agency to a line agency. Mark Reger stated that the administering agency should have its own separate structure.

The members discussed whether or not the state should guarantee the prepaid tuition program. Concerns were expressed by the members about the possible consequences of guaranteeing the program. Several members felt that the state should guarantee the program. Chairman Crawford stated that if the group could not come to a consensus, the report issued by the task force may state that the issue of a state guarantee should be debated in the legislature. Mr. Iannucci asked the treasurer's representative, Mr. Reger, to prepare a matrix of the range of risk to the state.

In a discussion of the programs in other states, it was suggested that representatives from Florida, Massachusetts, Virginia, and Ohio brought in to provide task force members with an opportunity to ask questions.

The Chairman announced that the next meeting will be a public hearing at the University of Maryland Baltimore County on October 15, 1996. It was agreed that the public would be invited to address the need for a prepaid tuition program and how a program should be structured. In addition, it was agreed that a representative from Deloitte & Touche LLP would be invited to speak to the task force at the meeting on October 29, 1996 on actuarial methodology and the compliance of current programs with the new federal regulations.

Maryland Prepaid Tuition Task Force  
Meeting of October 3, 1996 Meeting

The Prepaid Tuition Task Force distributed a table which shows what the authority to act within each of the other states. The table shows that the state legislature has the authority to act within each of the states where the prepaid tuition program is guaranteed by the state.

Mark Rogers reported that when the first mini-bonds were offered by the state, the Treasury's office conducted a survey to determine why people purchased mini-bonds. Only 14 persons indicated that they purchased the bonds for college savings. Mr. Rogers reported that he had discussed the prepaid tuition program liability with Moody's. They asked that while there are liability issues with prepaid tuition programs, as long as the programs are actuarially sound and bond ratings should not be affected. Mr. Rogers also indicated that the Treasury would support a prepaid program as long as no state guarantee is required.

The task force members discussed whether or not an income tax should be included in the program. The consensus was that there should be no income tax for participation in the program. The consensus of the discussion of whether or not participation should be limited to Maryland residents was that the beneficiary must be a Maryland resident at the time the contract is purchased but that the purchaser need not be a resident.

There was a discussion of whether or not there is an existing state board that could administer the prepaid program. It was suggested that the Treasury should be the custodian of the funds and the Maryland Higher Education Commission should be the administrator. Secretary Flanagan pointed out that the Commission's role is policy rather than administration. Chairman Crawford commented that in addition to not having the right to administer the program, the Commission would be moved from a policy agency to a line agency. Mark Rogers stated that the administering agency should have its own separate structure.

The members discussed whether or not the state should guarantee the prepaid tuition program. Comments were expressed by the members about the possible consequences of guaranteeing the program. Several members felt that the state should guarantee the program. Chairman Crawford stated that if the group could not come to a consensus, the report issued by the task force may state that the issue of a state guarantee should be debated in the legislature. Mr. Rogers stated the treasurer's representative, Mr. Rogers, is preparing a number of the terms of the act to the state.

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The Chairman announced that the next meeting will be a public hearing at the University of Maryland Baltimore County on October 15, 1996. It was agreed that the public hearing will be moved to address the need for a prepaid tuition program and how a program should be structured. In addition, it was agreed that a representative from Johns & Tonche LLP would be invited to speak to the task force at the meeting on October 15, 1996 on actuarial methodology and the compliance of current programs with the new federal regulations.



## **Maryland Prepaid Tuition Task Force Notes of November 12, 1996 Public Hearing**

The November 12th meeting was the second of the two public hearings the task force was required to hold. The hearing was held at Montgomery College - Rockville Campus.

Dr. Robert Parilla, President, testified on behalf of Montgomery College. He commented that he supports the concept of helping Marylanders prepare for college. He stated that he was hopeful that a prepaid tuition program would include a provision to allow families, especially those with lower income, to save for two years of college at a community college. Delegate Mossburg stated that he felt that a component for two year colleges was vitally important in a prepaid tuition program.

In his testimony, Mr. Larry Fitzwater stated that while he is a strong supporter of education, he felt that rather than creating another state bureaucracy more state funds should be spent to assist adult students who return for an education. He also commented that because financial planning is available in the private sector a prepaid tuition program could be viewed as state government competing with the private sector. He said because of the continued precipitous increases in tuition costs his greatest concern is a large unfunded mandate in the future.

Chairman Crawford stated that no one on the task force wanted to see an unfunded liability. In his view, a compelling reason to establish a prepaid tuition plan is in reaction to a change in the federal law which has created an opportunity to allow students to benefit. Senator Hogan commented that the Governor has provided additional money to higher education and that in his opinion a prepaid tuition program is just one more tool to assist a different group. He stated that he does not envision the taxpayers supporting this program. In addition, he said that it is his hope that by having more students participate in savings for their child's education scholarship dollars will be freed for others.

Ms. Susan Woda, testifying on behalf of the State Affairs Commission of the University of Maryland System Student Council, stated that they strongly support the efforts of the task force to make higher education more accessible. It is the council's recommendation that the prepaid program be as inclusive as possible. However, the council does have several concerns. The council believes that high school graduates should be allowed to take time off before matriculating in college and still participate in the program. The council is also concerned that a prepaid tuition plan would affect a student's ability to receive merit and need-based scholarships. In addition, the council asked that the task force members allow part-time students and students who enroll at a community college with plans to transfer to a four-year school to participate.

Dr. Florestano explained that merit scholarships are awarded regardless of income level, prepaid tuition, or other factors. Mr. Spain commented that he was convinced that a prepaid tuition program must include community colleges.

The chairman announced that at the next meeting on November 18, 1996 the session would focus on developing the Maryland plan. He stated that he hoped the task force would be able to develop key bullet points on what should be included in the plan. He further commented that it may be necessary to note disagreements.

## MINUTES

### Maryland Prepaid Tuition Task Force Notes of November 18, 1996



The November 18th meeting at the Maryland Higher Education Commission was a working session that focused on the structure of a Maryland program. In his opening remarks, Chairman Crawford commented on the passing away of Senator John A. Cade and indicated what a loss it was to the State and the Maryland higher education community.

The Chairman then solicited comments from the task force members on the proposed content of their report. A suggestion was made to include a discussion of the cost of the prepaid tuition program. The members of the task force agreed on this point. Another suggestion was made to include a discussion on the need for Maryland's higher education institutions to support the prepaid program. This support would take the form of a "tuition treaty" or a "Memorandum of Understanding" between the State and Maryland's higher education institutions. Some members of the task force felt that the term "tuition treaty" would be inappropriate and suggested the term "statement of intent" instead. The task force members ultimately decided that the issue of a voluntary tuition policy should be discussed within the report as an item of further study.

The members of the task force then discussed the structure of the Maryland Prepaid Tuition Program. The members agreed that the target market of the program should be families with incomes between \$25,000 and \$75,000, and that a limited guarantee should be provided with the program. Although the task force members agreed that a program that was not backed by the full faith and credit of the State would decrease overall participation levels, they felt that the constitutional amendment that would be necessary to provide such a guarantee could not be obtained. In addition, backing the program by the full faith and credit of the Maryland could potentially expose the State to a large unfunded liability in the future. The task force members also decided that the minimum amount of benefits that could be purchased should be one academic year.

In his closing remarks, Chairman Crawford indicated that a draft report would be provided to the members of the task force at the November 25th meeting.

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The members of the task force then discussed the structure of the Maryland Project. The members agreed that the target market of the program should be families with income between \$25,000 and \$35,000, and that a limited guarantee should be provided with the program. Although the task force members agreed that a program that was not limited by the full faith and credit of the State would require general participation levels, they felt that the commitment commitment that would be necessary to provide such a guarantee could not be obtained. In addition, limiting the program by the full faith and credit of the Maryland could potentially expose the State to a large unfunded liability in the future. The task force members also decided that the minimum amount of liability that could be purchased should be one million dollars.

The Chairman then presented comments from the task force members on the proposed content of their report. A suggestion was made to include a discussion of the structure of the program. Another suggestion was made to include a discussion of the need for Maryland's higher education institutions to provide the program. The task force members agreed that the program should be a "voluntary" program, and that the program should be a "voluntary" program. The task force members also agreed that the program should be a "voluntary" program, and that the program should be a "voluntary" program. The task force members also agreed that the program should be a "voluntary" program, and that the program should be a "voluntary" program.

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## **MINUTES**

### **Maryland Prepaid Tuition Task Force Notes of November 25, 1996**

The November 25th meeting at the Maryland Higher Education Commission was a working session to discuss a draft report prepared by staff.

Chairman Crawford noted that the report was intended to provide broad guidelines on the structure of a Maryland Prepaid Tuition Program rather than to be a detailed blueprint. He noted that it would be up to the program's administrators to work out the operational and other details. The task force members agreed that while the program's administrators should be responsible for deciding how the program should be run, the legislature and executive branch should be involved to assure that certain public policy goals are met.

The draft report called for the Office of the State Treasurer to administer the Maryland Prepaid Tuition Program. The task force member felt that if the program was administered by the State Treasurer, it could only invest in fixed income securities. In order for the program to be able to invest in a broader range of securities, the task force felt that it should be a quasi-independent state entity similar to that established for the state pension system. A suggestion was made to have the Maryland Higher Education Commission administer the program, but it was rejected because the majority of the task force members were not convinced that this agency had the necessary financial and marketing expertise.

The draft report also called for a five member board for the Maryland program. The members of the task force agreed upon a seven member board which would include the State Treasurer and the Secretary of Higher Education.

In his closing remarks Chairman Crawford indicated that the next meeting would be on December 13th. He requested that the task force members provide any other changes to the draft report to the staff by December 2.

# MINUTES

Mississippi Highway Traffic Fund  
November 15, 1955

The November 15th meeting of the Mississippi Highway Traffic Fund Committee was a working session to discuss a draft report prepared by staff.

Chairman Crawford noted that the report was intended to provide broad guidelines on the structure of a Highway Traffic Fund program rather than to be a detailed blueprint. He noted that it would be up to the program's administrators to work out the operational and other details. The staff members agreed that while the program's administrators should be responsible for working out the program details, the program as such would be reviewed by the committee to ensure that it was in line with the state's policy goals.

The draft report called for the Office of the State Treasurer to administer the Highway Traffic Fund program. The staff members noted that if the program was administered by the State Treasurer, it would only be for the first few years. In order for the program to be able to move to a broader range of activities, the staff felt that it should be a separate independent state entity similar to that established for the state police. A suggestion was made to have the Highway Traffic Fund Committee administer the program, but it was rejected because the majority of the staff felt that there was not enough staff and the necessary financial and technical expertise.

The draft report also called for a five member board for the Highway Traffic Fund. The members of the staff noted that a seven member board would be better than the five. Treasurer and the Secretary of Highway Education.

In the closing remarks Chairman Crawford indicated that the next meeting would be on December 15th. He requested that the staff make a further review of any other changes to the draft report to the staff by December 1st.



UNIVERSITY OF MARYLAND SYSTEM  
OFFICE OF THE BOARD OF REGENTS

3300 Metzerott Road  
Adelphi, Maryland 20783

(301) 445-2701

December 20, 1996

The Honorable Parris Glendening  
Governor of the State of Maryland  
State House  
Annapolis MD 21401

Dear Governor:

On behalf of the Prepaid Tuition Task Force, we are pleased to deliver our final report which strongly recommends that the State of Maryland establish a college savings program. President Clinton signed into law in August 1996 federal legislation which finally clarifies the deferral of federal and state taxes on the earning assets under a qualified state plan. These combined tax benefits which secure the tuition contracts can provide a qualified guarantee for a menu of plans to meet public college costs. We have been diligent in the recommendations to ensure that the program will be self supporting of its administrative and does not require a full faith and credit pledge of the state. The program will complement private sector college savings. The tuition contract value can be used to provide a portion of the tuition cost at Maryland's four-year private colleges.

Through your leadership to ensure that higher education is a top state priority and the leadership of Senators Kasemeyer and Hogan and Delegates Mossburg and Shriver who have maintained the drive to have this program as part of Maryland's arsenal of tools to provide access and affordability for an increased number of Maryland students to attend college, Maryland will adopt a means to strongly encourage families to save for college. Adoption of the legislation establishing a Maryland Prepaid Tuition Program is an investment in Maryland's economic future which must be made. The Task Force stands ready to work with you and the General Assembly to ensure passage of the enabling legislation.

Sincerely,

Edwin S. Crawford  
Chairman

CC: Task Force Members